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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,130	10/05/2005	Michel Bardel	41052/321146	6354
23370	7590	02/02/2010		
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309			EXAMINER BLIZZARD, CHRISTOPHER JAMES	
			ART UNIT 3771	PAPER NUMBER
			MAIL DATE 02/02/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,130

Applicant(s)

BARDEL, MICHEL

Examiner

CHRISTOPHER BLIZZARD

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to amendment filed 10/07/09. As directed claims 1 and 6 were amended, claims 2 and 5 were cancelled, and no claims were added.

This application currently has claims 1, 3, 4, 6 and 7 pending.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Regarding claim 3, the limitation "in which the display device includes light transmission means disposed inside the shield" renders the claim indefinite as it is unclear how a part of the display device is located within the shield when in the claim which this claim depends from, claim 1, the display device is limited to being outside the shield.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 3, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (6,297,749) in view of McDonald (6,567,220).
2. Regarding claims 1, 3, 4, and 5, Smith discloses a protective shield (14) for protecting the eyes against smoke to be applied to the upper portion of the face of a user around the eyes (column 1, lines 49-52), including a locking means (36) for temporarily fixing it to a face mask (26) for supplying breathing gas to an aircraft flight crew member (fig. 1) the shield comprises a display device (20, 22), with an internal light transmission means (22) (fig. 2a), adapted to enable a user whose face is covered by the shield to view information in the user's field of view (column 2, lines 34-38), said display device comprising a connection means (30) enabling images to be supplied to the display device (column 2, line 52-53). Smith does not disclose the display device being removably mounted to the outside of the shield. McDonald teaches a shield with display device in the form of a retinal scanner (26) (column 3, lines 14-23) fastened in an inherently removable manner to the outside of shield when the shield is covering the face of the user (fig.1) (column 2, lines 36-40; column 4, lines 33-36). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the shield of Smith with an external display device as taught by McDonald in order to provide the advantage obscuring less of the user's vision when the shield is one but display device is not in use.
3. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (6,297,749) as applied to claim 1 above, and further in view of Keller (6,675,800)

4. Regarding claims 6 and 7, Smith discloses the claimed invention above except for the connection means being attached to the feed pipe. Keller teaches a shield with a display device wherein the connection means (33) are connected via a breathing gas feed hose (14) (fig. 1). It would have been obvious to one of ordinary skill in the art to provide the mask of Smith with a connection means and feed pipe as taught by Keller in order to provide the advantage of a more compact device.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 3, 4, 6, and 7 have been considered but are moot in view of the new ground(s) of rejection. Applicant's argument that the retinal scanner of McDonald is fixed to the outside of the shield and is not removable is not persuasive as McDonald discloses that the retinal scanner could be attached to any mask and it is inherent that this could be done in a removable way.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER BLIZZARD whose telephone number is (571)270-7138. The examiner can normally be reached on Monday thru Friday, 9:00AM -5:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571)2724835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER BLIZZARD/
Examiner, Art Unit 3771

/Justine R Yu/
Supervisory Patent Examiner, Art Unit 3771